



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2016-0328 FRL-9957-17-Region 5]**

**Air Plan Approval; Indiana; Emissions Statements Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the emissions statements rule in the Indiana State Implementation Plan (SIP). These revisions, if approved, would extend Indiana's emissions statements regulations to Lawrenceburg Township, Dearborn County in order to be consistent with Clean Air Act (CAA) requirements for the 2008 ozone National Ambient Air Quality Standards (NAAQS). These revisions also include minor formatting changes. The Indiana Department of Environmental Management (IDEM) submitted these revisions to EPA on November 18, 2016.

**DATES:** Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0328 at <http://www.regulations.gov>, or via email to [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting

comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-4489, [svingen.eric@epa.gov](mailto:svingen.eric@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background

II. Indiana's submittal

III. EPA's analysis of Indiana's submittal

IV. What action is EPA taking?

V. Incorporation by Reference.

VI. Statutory and Executive Order Reviews.

## **I. Background**

Section 182(a)(3)(B) of the CAA mandates that each state to submit a revision to its SIP to require that the owner or operator of each applicable stationary source of nitrogen oxides (NO<sub>x</sub>) or volatile organic compounds (VOCs) provide annual emissions statements to the state showing the actual emissions of these pollutants from that source. This requirement applies in all ozone nonattainment areas to any source emitting at least 25 tons per year of VOCs or NO<sub>x</sub>.

As EPA has promulgated more stringent NAAQS for ozone, additional areas in Indiana have been designated as nonattainment. Subsequently, some of these areas later demonstrated attainment and EPA redesignated them accordingly.

Indiana has historically satisfied Section 182(a)(3)(B) requirements by submitting SIP revision requests that apply the emissions statements rule to contemporaneous ozone nonattainment areas.

On June 10, 1994 (59 FR 29953), EPA determined that Indiana regulation 326 IAC 2-6 ("Emission Reporting") satisfied the requirements of CAA Section 182(a)(3)(B) for nonattainment areas under the 1979 ozone NAAQS, and approved it into Indiana's SIP. On October 29, 2004 (69 FR 63069), EPA approved into Indiana's SIP a revised version of the applicability section at 326 IAC 2-6-1, which limited the emissions statements rule to only Lake and Porter counties. On March 29, 2007 (72 FR 14681), EPA approved into Indiana's SIP a revised version of 326 IAC 2-6 that extended the emissions statements rule to LaPorte County, which had been designated nonattainment under the 1997 ozone NAAQS.

On May 21, 2012, EPA published designations under the 2008 ozone NAAQS for most areas in the United States (77 FR 30088). In Indiana, only the portion of Dearborn County that is within Lawrenceburg Township was designated nonattainment. On June 11, 2012, EPA published designations under the 2008 ozone NAAQS for the remaining areas in the United States (77 FR 34221). In

Indiana, Lake and Porter counties were added to the list of Indiana designated nonattainment areas. Lake and Porter counties have been subject to federally-enforceable emissions statements requirements since EPA approved the original version of 326 IAC 2-6 into Indiana's SIP in 1994; therefore, Indiana's only remaining obligation under Section 182(a)(3)(B) with regard to the 2008 ozone NAAQS is to submit a SIP revision applying emissions statements requirements to Lawrenceburg Township in Dearborn County.

## **II. Indiana's submittal**

On November 18, 2016, IDEM submitted to EPA revisions to 326 IAC 2-6-1, and requested that EPA approve these revisions into Indiana's SIP. IDEM opened a public comment period lasting from April 27, 2016, to May 27, 2016, and held a public hearing on August 10, 2016; no comments were received. Also on August 10, 2016, the revisions were approved by Indiana's Air Pollution Control Board. The revisions were filed with the Indiana Register on October 21, 2016, and published in the Indiana Register on November 16, 2016.

In its submittal, Indiana is revising and submitting only three changes to 326 IAC 2-6-1. First, Indiana is making a minor formatting change that more clearly references part 70

(title V of the CAA) permitting rules under 326 IAC 2-7.

Second, Indiana is adding Lawrenceburg Township, Dearborn County to the applicability section. Third, Indiana is making another minor formatting change that more clearly references additional information requests under 326 IAC 2-6-5. The remaining portions of 326 IAC 2-6, versions of which were last approved into Indiana's SIP in 2004 or 2006, are unchanged in this revision.

### **III. EPA's analysis of Indiana's submittal**

Indiana's revised version of 326 IAC 2-6-1 appropriately extends the emissions statements rule to Lawrenceburg Township, Dearborn County. This change is consistent with EPA's Section 182(a)(3)(B) requirements. The revised rule also contains minor formatting changes that clarify references to related rules.

### **IV. What Action is EPA taking?**

EPA is proposing to approve the revisions to 326 IAC 2-6-1 into Indiana's SIP.

### **V. Incorporation by Reference.**

In this rulemaking, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the revised IDEM rule at 326 IAC 2-6-1 filed with the Indiana Register on October 21,

2016, regarding the emissions statements rule and discussed in section II of this rulemaking. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov), and/or at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

#### **VI. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and



- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 12, 2016.

Robert A. Kaplan,  
Acting Regional Administrator, Region 5.

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